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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/761,035

01/20/2004

Clemens Rickert

09225-US

1182

30689

7590

08/21/2006

DEERE & COMPANY
ONE JOHN DEERE PLACE
MOLINE, IL 61265

EXAMINER

TORRES, ALICIA M

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 08/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/761,035	Applicant(s) RICKERT, CLEMENS	
	Examiner Alicia M. Torres	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-15 is/are allowed.
- 6) ☒ Claim(s) 8-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cornish et al. 3,731,470 in view of Adams 3,535,859.

Cornish discloses a harvesting machine having a direction of travel comprising:

- A main frame (12)
- A feeder house (78) mounted to the main frame (12) having a front face with a mounting device (156) which is movable with respect to the main frame (12)
- A header (160) releasably mounted to the mounting device (156).

However, Cornish fails to disclose a drive train comprising:

- A header drive shaft supported on the mounting device and driven by the harvesting machine
- A secondary drive shaft mounted on and supplying power to the header and driven by the header drive shaft.

Adams discloses a similar harvesting machine including a drive train comprising:

- A header drive shaft (110) supported on the mounting device (15) and driven by the harvesting machine (not shown)

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- A secondary drive shaft (90) mounted on and supplying power to the header (10) and driven by the header drive shaft (110).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the drive train of Adams on the machine of Cornish in order to provide a convenient disengaging drive.

3. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cornish and Adams in view of Beougher et al., hereafter Beougher.

The device is disclosed as applied to claim 8 above. However, Cornish and Adams fail to disclose wherein the header includes a center pad being mounted on the mounting device and at least one side pad being attached to the center pad, the at least one side part having a transport position and a work position relative to the center part, and the secondary drive shaft on the center part being connected to the header drive shaft, so that the side part can be brought into the transport position without separating the drive connection between the secondary drive shaft of the center part and the header drive shaft.

Beougher discloses a harvester wherein the header (11) includes a center part (17) being mounted on the mounting device (unnumbered) and at least one side part (18) being attached to the center part (17), the at least one side part (18) having a transport position and a work position relative to the center part (17), and the secondary drive shaft (49) on the center part (17) being connected to the header drive shaft (47), so that the side part (18) can be brought into the transport position without separating the drive connection between the secondary drive shaft (49) of the center part (17) and the header drive shaft (47).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the pivotal drive of Beougher on the harvester of Cornish and Adams in order to maintain drive over uneven terrain.

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cornish and Adams in view of Izakson.

The device is disclosed as applied to claim 8 above. However, Cornish and Adams fail to disclose wherein the harvesting machine is provided with slope equipment that keeps the main frame oriented horizontally when traveling over a slope.

Izakson discloses a similar harvester including wherein the harvesting machine is provided with a slope equipment that keeps the main frame oriented horizontally when traveling over a slope (see column 4, lines 6-9).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the slope equipment of Izakson on the harvester of Cornish and Adams in order to operate on hillsides.

Response to Arguments

5. In response to applicant's argument that the combination of Cornish and Adams does not result in the invention, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary

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skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). The claims do not call for the drive of a specific tool, other than the vague, generic “header”. The idea of the rejection of claim 8 is that it is obvious to use the drive train of Adams on the combine of Cornish to provide drive to the header. Therefore, the details of the Adams feeder house and mounting device are irrelevant since it is only the drive train used in the rejection.

6. Regarding claims 8-10, the applicant is arguing more than claimed. Claim 8 requires a feeder housing with a mounting device and a simple drive train. No structural details are provided for the mounting device other than that it is movable relative to the main frame. This “mounting device” could simply comprise a hanger welded to the front of the feeder housing so long as the feeder housing pivots or telescopes relative to the main frame, which this is a common, well-known feature in the harvester art. Any of Adams parts 15, 54, 55, 59, 61, 63 could qualify as a “mounting device” in light of the lack of structural detail. Furthermore, the applicant never claims the type of tool being driven in the header. Therefore, any tool would suffice.

Allowable Subject Matter

7. Claims 11-15 are allowed.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**


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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 571-273-8300.


Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671

AMT
August 8, 2006